

STATE OF MICHIGAN  
IN THE SUPREME COURT

DONALD E. TATE.  
Plaintiff-Appellee.

V.

SC: 126603

BOTSFORD GENERAL HOSPITAL,  
Defendant-Appellant.

COA: 245081

OAKLAND CC: 01-035359-NO

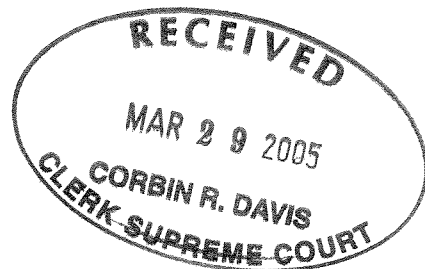
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**PLAINTIFF-APPELLEE'S RESPONSE IN OPPOSITION TO**  
**DEFENDANTAPPELLANT'S SUPPLEMENTAL BRIEF**

**AFFIDAVIT OF SERVICE**

**ORAL ARGUEMENTS NOT REQUESED**

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**ARGUMENT IN OPPOSITION TO DEFENDANT-APPELLANT'S  
SUPPLEMENTAL BRIEF**

Defendant in its Supplemental Brief is arguing that the testimony of a medical expert is necessary in order to overcome and justify Plaintiff's verbal announcement that he was leaving while getting off of the gurney. Plaintiff's sworn statement and that of his lady friend, Lillian Hoblak both state the Plaintiff never suffered any trouble breathing or any other respiratory difficulties, and that he was able to leave to go over to Beaumont Hospital. See Exhibits "A" and "B".

This is in direct opposition to the attending physician's affidavit that Plaintiff was in a life threatening situation and that she was therefore mandated and constrained to restrain Plaintiff from leaving by having him tied down on the gurney.

Hence, the sole issue for this Court to determine is whether or not there is a material issue of fact to be determined by the trier of fact so that the Trial Court in Granting Summary Disposition was in error under MCR.2.116(C)(10) as the Appellate in its unanimous ruling so found.

There is no dispute that the Plaintiff had made his intention to leave known and thereafter defendant hospital restrained him against his will at their hospital.

It is therefore Plaintiff's contention that a good cause of action was stated and that the Appellate Court was absolutely correct in its ruling>

Without duplicating the Appellate Courts' well reasoned and logical conclusion ( which Plaintiff adopts and makes part of this pleading) Plaintiff would merely point out the case of In re Rosebush, 195 Mich App 675 wherein it is cited "{A} competent adult patient has the right to decline any and all forms of medical intervention, including lifesaving or life-prolonging treatment.

THAT SAYS IT ALL !

**RELIEF SOUGHT**

That this Court affirm Appellate Courts' Ruling.

Respectfully submitted



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# EXHIBITS

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

DONALD TATE,

Plaintiff,

-vs-

Case No. 2001-035359-NO

BOTSFORD GENERAL HOSPITAL,  
a Michigan non-profit corporation,

Hon. Colleen A. O'Brien

Defendant,

PLAINTIFF'S DONALD TATE'S AFFIDAVIT

Plaintiff being first duly sworn deposes and says:

1. That he is the plaintiff in the above captioned matter and makes this affidavit for the purpose of refuting and correcting Dr. Diane Paratore's false and misleading statements and in Botsford General Hospital's medical records.

2. I admit that I drove over to the Botsford General Hospital's Emergency ward with simple stomach lower bowl stomach cramps that over-the-counter stomach medication did not seem to help much. I further acknowledges that I signed an Authorization for Emergency Services, but emphatically and unequivocally deny and contest the contention that I ever complained of any difficulty with his breathing at any time while in the defendant hospital, or, in fact ever suffered from breathing difficulties before or since, or that I ever understood that I was surrendering my constitutional and natural rights to make my own medical decisions while I was mentally alert, rational and physically able to move myself freely about.

3. I further allege and contend that the sole and only purpose for going to the defendant hospital for simple lower bowl cramping and that I was otherwise in robust good health.

4. I further contend~~s~~ that after I was taken into the emergency ward, I allowed my pulse to be taken and a blood sample to be drawn, but I strongly questioned the treating doctors competency and her motive when she inserted an IV tube in my arm as I had been medically treated several times in the past stomach up<sup>stx</sup> where I was successfully treated with a simple oral medication that alleviated

the problem.

5. When I then to get up off the gurney and announced that I was going over to Beaumont General Hospital, the treating <sup>doctor</sup> called over a security guard accompanied by two hospital orderlies that intimidated me from leaving. I then announced that I was going to call the police and the treating doctor then indicated the security guard was the police.

6. As I again attempted to get off the gurney and leave, the treating doctor had my wrist tied to the gurney so that I was totally immobilized and could not move from the gurney.

7. It is my emphatic <sup>contention</sup> and that at that point in time and until I was finally released from the facility, I was fully the prisoner of the defendant facility and was falsely imprisoned. I further contend that at that point in time I was fully mentally alert and very capable of making a rational judgment as to my decision to leave and I was physically able drive myself over to Beaumont Hospital for treatment. I was not on an emergency state at that time nor was there any life threatening conditions extant.


8. It was only after I was tied down and the IV tube reinserted and drugs poured into me that I suffered any bad reaction that consisted primarily of keeping me in an extreme drowsy state the rest of my imprisonment in the defendant hospital.

9. I repeat that I never suffered from any respiratory problems prior to my entry into Bostford, while in Bostford, or after I left Bostford.

10. I was held in Bostford Hospital against my will and consent for approximately 36 hours, I was never informed by any one why I was being held against my will and consent, nor offered to sign a release to leave until I was finally permitted to leave on <sup>Friday</sup> Saturday morning.

I DECLARE THAT THE STATEMENTS ABOVE ARE TRUE AS TO THE BEST OF MY INFORMATION, KNOWLEDGE AND BELIEF.

October 4, 2002

  
Donald E. Tate, Plaintiff

STATE OF MICHIGAN  
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

DONALD TATE,

Plaintiff,

-vs-

Case No. 2001-035359-NO

BOTSFORD GENERAL HOSPITAL,  
a Michigan non-profit corporation,

Hon. Colleen A. O'Brien

Defendant,

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**LILLIAN HOBLAK'S DEPOSITION**

Lillian Hoblak being first duly sworn deposes and says:

1. That she is the long time friend of the plaintiff in the above captioned matter and has known him for over Twenty (20) years and make this affidavit as what she witness concerning the plaintiff's complaint of a simple stomach up-set and what occurred at Botsford Hospital concerning the subject of this law suit.

2. That on January 17, 2001, the plaintiff was visiting me at my home in Farmington Hills, Michigan, when he experienced lower bowl cramping and when over the counter medication did not seem to give him relief I suggested that we go over to Botsford Emergency Department to see if they had some more potent drug to alleviate his discomfort. This was his sole complaint and he was otherwise in good spirits.

3. The plaintiff drove my car over to Botsford and he was entered into the emergency ward.. I alternately entered the emergency ward and sat in the waiting room.

4. Just prior to the following related incidents I was in the emergency ward; and, other than the stomach cramping, the plaintiff was feeling fine and looked robust.

5. From the waiting room, shortly thereafter, I heard the plaintiff say that he was leaving and going to Beaumont. I then heard a female voice say he was too sick to leave. I then heard plaintiff state that he was going to call the police and the female voice state that this was the police. I then heard scuffling and a few moments later I entered the emergency ward saw the plaintiff tied to the